

COMMISSION ON STATE MANDATES

980 NINTH STREET, SUITE 300

SACRAMENTO, CA 95814

TELEPHONE: (916) 323-3562

FAX: (916) 445-0278

E-mail: csminfo@csm.ca.gov

December 13, 2010



Mr. Keith Petersen
SixTen and Associates
3270 Arena Blvd., Suite 400-363
Sacramento, CA 95834

Elizabeth Miller, EdD, Vice President
Administrative Services
Allan Hancock Joint Community College Dist.
800 South College Drive
Santa Maria, CA 93454-6399

Mr. Jim Spano
Division of Audits
State Controller's Office
3301 C Street, Suite 700
Sacramento, CA 95816

**RE: Notice of Proposed Consolidation of Incorrect Reduction Claims/
Request for Further Briefing and Information**

Health Fee Elimination (09-4206-I-19, 09-4206-I-20, 09-4206-I-23, 09-4206-I-26,
09-4206-I-27, 09-4206-I-28, 09-4206-I-30)

Education Code Section 76355

Statutes 1984, Chapter 1; Statutes 1987, Chapter 1118

Claimants: Citrus Community College District (FYs 2002-02 – 2006-07), Cerritos
Community College District (FYs 2002-03 – 2006-07), Los Rios Community College
District (FYs 2005-06 – 2007-08), Redwood Community College District
(FYs 2002-03 – 2008-09), Allan Hancock Joint Community College District
(FYs 2002-03 – 2006-07), Rancho Santiago Community College District (FYs 2005-06 –
2008-09), Pasadena Community College District (FYs 2004-05 – 2005-06)

Notice of Proposed Consolidation

Pursuant to Government Code section 17558.8 and section 1185.4 of the Commission's regulations, I am proposing to consolidate the above-named incorrect reduction claims. These incorrect reduction claims raise common questions of law and fact and were reduced by the State Controller's Office for the same reason.

In all claims, the claimant filed annual reimbursement claims for the *Health Fee Elimination* program. These claims were subject to a desk audit by the State Controller's Office. All claims were reduced because the claimants did not identify the full amount of offsetting revenue authorized by Education Code section 76355. In addition, four claimants argue the State Controller's Office initiated the audits and reduced the reimbursement claims for fiscal years 2002-2003 and 2003-2004 after the statute of limitations in Government Code section 17558.5 expired. Accordingly, a consolidation of these claims would result in consistent decision-making by the Commission.

Pursuant to section 1185.4 of the Commission's regulations, the consolidation of the incorrect reduction claims listed above will become effective 30 days from the date of this letter, or on **January 12, 2011**.

Requests to Sever Individual Incorrect Reduction Claims. On or before January 12, 2011, a claimant may serve and file a written request that an individual incorrect reduction claim be severed from the proposed consolidation. Timely requests to sever shall be approved. Requests for severing an individual incorrect reduction claims received after January 12, 2011, shall be denied. (Cal. Code Regs., tit. 2, § 1185.4, subd. (a)(2)(3).)

Appeal to the Commission. Any party may appeal to the Commission for review of the actions and decisions of the Executive Director to consolidate these incorrect reduction claims pursuant to section 1181 of the Commission's regulations.

Request for Further Briefing and Information

In order to complete a draft staff analysis on these incorrect reduction claims, Commission staff requests further briefing and information from the parties by **January 12, 2011, and any rebuttal comments filed by January 26, 2011**, on the following issues:

1. How does the court's decision in *Clovis Unified School Dist. v. Chiang* (2010) 188 Cal.App.4th 794, 810-812, regarding the offsetting revenue authorized by Education Code section 76355 for the *Health Fee Elimination* program, impact these incorrect reduction claims?
2. Please identify any issues regarding the amount of the offsetting revenue authorized to be reduced from these claims.
3. In four of the incorrect reduction claims (09-4206-I-19/20/26/27), the claimants argue that the State Controller's Office initiated the audits and reduced the reimbursement claims for fiscal years 2002-2003 and 2003-2004 after the statute of limitations in Government Code section 17558.5 expired. No comments on this issue have been filed by the State Controller's Office.

Government Code section 17558.5, subdivision (a), states the following:

A reimbursement claim for actual costs filed by a local agency or school district pursuant to this chapter is subject to the initiation of an audit by the Controller no later than three years after the date that the actual reimbursement claim is filed or last amended, whichever is later. However, if no funds are appropriated or no payment is made to a claimant for the program for the fiscal year for which the claim is filed, the time for the Controller to initiate an audit shall commence to run from the date of initial payment of the claim. In any case, an audit shall be completed not later than two years after the date that the audit is commenced.

The State Controller's Office is requested to identify when these audits were "initiated" and to provide any documentary evidence to show the date the audits were "initiated."

Section 1188.1 of the Commission's regulations requires that all assertions or representations of fact shall be supported by documentary evidence, which must be authenticated by declarations

under penalty of perjury signed by persons who are authorized and competent to do so and be based upon the declarant's knowledge or information or belief.

These incorrect reduction claims will be set for hearing when the draft staff analysis is issued. (Cal. Code Regs., tit.2, § 1187, subd. (b), eff. Jan. 1, 2011.)

Mailing Lists and Filing and Service of Written Materials

Please see section 1181.2 of the Commission's regulations for complete procedures for filing written materials.

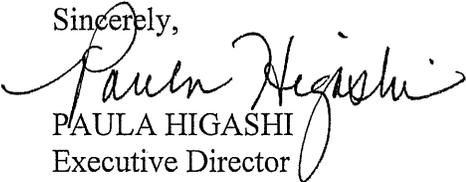
Pursuant to section 1181.2, subdivision (a), the Commission will promulgate a mailing list of parties, interested parties, and interested persons for each claim or other filing, and provide the list to those included on the list, and to anyone who requests a copy. Pursuant to subdivision (b), any written material filed by hard copy with the Commission on this claim shall be simultaneously served on the other parties listed on the mailing list provided by the Commission.

Electronic Filing

Written materials may also be electronically filed with the Commission. Parties, interested parties, and interested persons electing to file written materials electronically should go to the Commission's website at csm.ca.gov and click on the "Commission Dropbox" and following the instructions. Complete instructions are also included with this notice. Written materials that are electronically submitted will be posted to the Commission's website, and will satisfy the requirements that written materials be served on all parties and persons on the mailing list.

Please contact Camille Shelton, Chief Legal Counsel, at (916) 323-8215, with questions or concerns regarding these matters.

Sincerely,


PAULA HIGASHI
Executive Director